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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/757,471	01/11/2001	Kazunori Suemoto	3562-0112P	7817
2292	7590	12/01/2005	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH			HO, TUAN V	
PO BOX 747			ART UNIT	
FALLS CHURCH, VA 22040-0747			PAPER NUMBER	
			2615	

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/757,471	Applicant(s) SUEMOTO ET AL.	
	Examiner Tuan V. Ho	Art Unit 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-17,19,20 and 22-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3,5-17,19,20 and 22-40 is/are allowed.
- 6) ☒ Claim(s) 35,38 and 41-49 is/are rejected.
- 7) ☒ Claim(s) 36--37 and 39-40 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant's arguments with respect to claims 35, 38 and 41-19 have been considered but are moot in view of the new ground(s) of rejection.

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 41-49 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 41 recites "a program that is executable by a computer of an image capturing apparatus"; however, claim 41 does not recite "a computer readable medium stored thereon a computer program comprising a set of instructions, when executed by a computer, the computer program to implement a method of recording data of an image capturing apparatus according to claim 41".

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for

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patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 35 and 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Suga et al (US 6,449,426).

With regard to claim 35, Suga et al discloses in Figs. 10 and 8, an image sensing and recording apparatus that comprise the plurality of medium wearable units in which a respective memory medium is loaded (first removable drive 408 and second removable drive 410, memories 421a and 421b, col. 9, lines 35-45), a medium selector medium wearable units a write-execution medium wearable unit that executes writing of data (recording medium selector 64, col. 9, line 50); and a selection controller for automatically selecting said loaded detachably according a preset instruction that reflects a user's medium selection trait (operation unit 409 including selection button 63 automatically records the image data in the first or second memory in accordance with the operation of button 63; where button 63 pre-selects the first or second memory, col. 9, lines 46-67 and col. 10, lines 1-17).

Method claim 38 recites what was discussed with respect to apparatus claim 35.

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4. Claims 41-43 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suga et al.

With regard to claim 41, Suga et al discloses the same subject matter as discussed with respect to claim 35, except that a recording medium for storing a program that is executable by a computer of the image capture apparatus.

Noted that Suga et al discloses in Fig. 10, system controller 50 that comprises feature table 5; where the table is inherently stored in a memory (col. 3, lines 60-67 and col. 4, line 1-5).

Official Notice is taken for a recording medium for storing a program that is executable by a computer.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the system control of Suga et al so as to obtain a recording medium for storing a program that is executable by a computer of the image capture apparatus because the replacement of the Suga system with a computer including a recording medium storing a program would make the Suga system execute camera operations more accurate and faster.

5. Claims 36-37 and 39-40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten

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in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 1-3, 5-17, 19-20 and 22-34 are allowed.

7. This Office action is not made Final since new grounds of rejection applied to claims 41-49.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to TUAN HO whose telephone number is (571) 272-7365. The examiner can normally be reached on Mon-Fri from 7AM to 4PM.

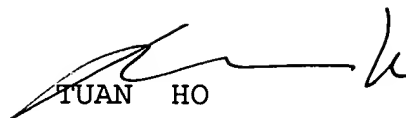
If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, David Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is (572) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service whose telephone number is (571) 272-2600.

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TUAN HO

Primary Examiner

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